



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,460	04/01/2002	Willem Johan Van Der Giessen	2005-1001	9285
466	7590	04/23/2007	EXAMINER	
YOUNG & THOMPSON			AZPURU, CARLOS A	
745 SOUTH 23RD STREET				
2ND FLOOR			ART UNIT	PAPER NUMBER
ARLINGTON, VA 22202				1615
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE		DELIVERY MODE
3 MONTHS		04/23/2007		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/089,460	VAN DER GIJSEN ET AL.	
	Examiner	Art Unit	
	Carlos A. Azpuru	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 May 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2,4-6 and 8-17 is/are rejected.
 7) Claim(s) 7 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of the amendment filed 05/12/2006.

The rejection under 35 USC 102(b) is hereby withdrawn in view of applicant's amendment of the claims.

The following is a new set of rejections based on applicant's amendment of the claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2, 8 and 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 improperly depends upon claim 1 in that it fails to set out the amounts of entactin/nidogen as set out in amended claim 1. Appropriate correction is requested.

Claims 8 and 16 set out that the composition of claim 1 and 12 "comprise" vitronectin. It is indefinite as to whether this is meant to be added to the already existing composition set out in these claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al (Journal of Vascular Surgery).

Schneider et al disclose vascular grafts on which a coating of heparin sulfate, laminin and collagen may be added (see abstract). This collagen is collagen type II and IV (see page 649, column 1, line 3). The composition may also contain nidogen (page 649, column 1, line 6) and bovine fibroblast growth factor (page 649, column 1, line 1). Nidogen and entactin are the same protein. Further, the reference specifically recited coating of the vascular grafts with extracellular matrix. Along with the components cited above, vitronectin and fibronectin are components of the extracellular matrix. Schneider further washes the extracellular matrix with a solution containing penicillin and streptomycin, adding antibiotics to the coating (see Materials and Methods, page 650). While the reference does not set out the percentages of each component, it is clear that all claimed components of the coating are present. As such, it would have been well within the skill of the ordinary practitioner to claim the instant intraluminal device by

Art Unit: 1615

modifying the weight percentages of each through routine experimentation, and further, expect similar therapeutic results from the use of such a coating on an intraluminal device as set out by Schneider et al. Given that extracellular matrix already has these components present, applicant would need to show that the amounts set out in the claims would not be present in extracellular matrix, or that they are so unexpectedly different that they would teach away from the reference. As such, it is deemed that the instant claims would have been obvious to one of ordinary skill in the art at the time of invention given the teachings of Schneider et al.

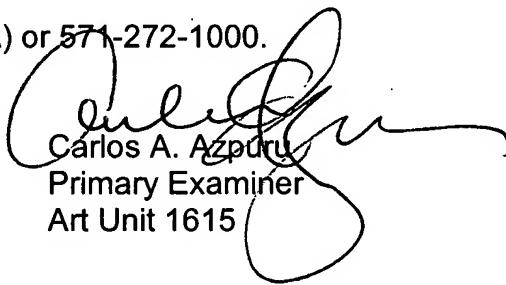
Claim 7 is objected to as dependent upon a rejected base claim.

The Chapter on Cell Adhesion Proteins is cited as evidence of the composition of extracellular matrix. Pages 5-9 are particularly relevant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is (571) 272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Carlos A. Azpuru
Primary Examiner
Art Unit 1615

ca